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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/707,134	<b>Applicant(s)</b> MARX, MICHAEL	
	<b>Examiner</b> Gay Ann Spahn	<b>Art Unit</b> 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-23 and 25-51 is/are pending in the application.
- 4a) Of the above claim(s) 8,13,14,22,23,27,31,32 and 36-50 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-7,9-12,15-21,25,26,28-30,33-35 and 51 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)            | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Reopening Prosecution After Board Decision***

PROSECUTION IS HEREBY REOPENED. A Non-Final Rejection on the merits is set forth below.

To avoid abandonment of the application, appellant must file a reply under 37 CFR 1.111.

A Technology Center Director has approved of reopening prosecution by signing below:

/Katherine Matecki/  
Katherine Matecki, Director, Technology Center 3600

### ***Election/Restrictions***

This application contains claims directed to the following patentably distinct species:

SPECIES I – Fig. 4;

SPECIES II – Fig. 7;

OR

SPECIES III – Fig. 10.

The species are independent or distinct because claims to the different species recite the mutually exclusive characteristics of such species. In addition, these species are not obvious variants of each other based on the current record.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, at least independent claim 3 appears to be generic.

There is an examination and search burden for these patentably distinct species due to their mutually exclusive characteristics. The species require a different field of search (e.g., searching different classes/subclasses or electronic resources, or employing different search queries); and/or the prior art applicable to one species would not likely be applicable to another species; and/or the species are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

**Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species to be examined** even though the requirement may be traversed (37 CFR 1.143) **and (ii) identification of the claims encompassing the elected species**, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

The election of the species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the election of species requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are

added after the election, applicant must indicate which of these claims are readable on the elected species.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the species unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other species.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.

During a telephone conversation with Mr. Kevin G. Mierzwa on October 13, 2009 (and subsequent voice-mail message on October 14, 2009) a provisional election was made with right to traverse to prosecute the invention of SPECIES I (i.e., Fig. 4), claims 2-7, 9-12, 15-21, 25, 26, 28-30, 33-35, and 51. Affirmation of this election must be made by applicant in replying to this Office action.

The examiner notes that Applicant listed claim 8 as being readable upon elected SPECIES I (i.e., Fig. 4). However, the examiner disagrees that claim 8 reads on elected SPECIES I (i.e., Fig. 4) because claim 8 recites that "the second body portion being rotatably coupled to the first body portion" and this clearly reads on non-elected SPECIES III (i.e., Fig. 10) which shows the first body portion (60") as being rotatably

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coupled via the threads (98) to the second body portion (lower portion of figure) via the threads (96). Based on the foregoing, the examiner is withdrawing claim 8 from further consideration as reading on non-elected SPECIES III (i.e., Fig. 10).

Claims 8, 13, 14, 22, 23, 27, 31, and 32 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

### ***Drawings***

The drawings filed on 21 November 2003 must have the informalities indicated on the attached "Notice of Draftsperson's Patent Drawing Review" (i.e., PTO-9480 corrected).

The drawings are objected to because:

(1) Fig. 4 is an exploded view and should have its separated parts embraced by a bracket in accordance with 37 CFR 1.84(h)(1);

(2) Fig. 4, the dashed lines leading from the cotter pin (56) to the external device (58) to the coupler (64) should be a projected line (i.e., line-dot-line) in accordance with the Manual of Patent Examining Procedure or MPEP, section 608.02 IX, entitled "Drawing Symbols";

(3) Fig. 4, the bracket adjacent reference numeral "60", the bracket adjacent reference numeral "62", and the bracket adjacent reference numeral "44" should be changed to a lead line ending in an arrow in accordance with 37 CFR 1.84(r)(1);

(4) Fig. 5, the bracket adjacent reference numeral "60" and the bracket adjacent reference numeral "62" should be changed to a lead line ending in an arrow in accordance with 37 CFR 1.84(r)(1);

(5) Fig. 6, the bracket adjacent reference numeral "60" and the bracket adjacent reference numeral "62" should be changed to a lead line ending in an arrow in accordance with 37 CFR 1.84(r)(1);

(6) Fig. 7, the bracket adjacent reference numeral "60" should be changed to a lead line ending in an arrow in accordance with 37 CFR 1.84(r)(1);

(7) Fig. 9, the bracket adjacent reference numeral "60" and the bracket adjacent reference numeral "62" should be changed to a lead line ending in an arrow in accordance with 37 CFR 1.84(r)(1); and

(8) Fig. 10 is an exploded view and should have its separated parts embraced by a bracket in accordance with 37 CFR 1.84(h)(1).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering

of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because of the following informalities:

(1) paragraph no. [0036], line 9, it is believed that reference numeral "62" should be changed to reference numeral --62'--;

(2) paragraph no. [0036], line 11, it is believed that reference numerals "60" and "62" should be changed to reference numerals --60'-- and --62'-- , respectively;

(3) paragraph no. [0036], line 12, it is believed that reference numeral "60" should be changed to reference numeral --60'--;

(4) paragraph no. [0036], line 13, it is believed that reference numeral "62" should be changed to reference numeral --62'--;

(5) paragraph no. [0037], line 3, it is believed that reference numeral "60" should be changed to reference numeral --60'--;

(6) paragraph no. [0037], line 4, it is believed that reference numeral "30A" should be changed to reference numeral --30A'--;

(7) paragraph no. [0037], line 6, it is believed that reference numeral "60" should be changed to reference numeral --60'--;



(8) paragraph no. [0038], line 4, it is believed that reference numeral "60" should be changed to reference numeral --60'--;

(9) paragraph no. [0039], it is believed that "Figure 88" should be changed to --Fig. 8--;

(10) paragraph no. [0041], line 9, it is believed that both occurrences of the reference numeral "42" should be changed to reference numeral --42"--;

(11) paragraph no. [0041], line 10, the examiner notes that reference numeral "90" has already been used to represent "edges" of the couplers "64" in the second embodiment and therefore, it is suggested that the third planar member be changed to reference numeral --91--;

(12) paragraph, no. [0041], line 11, it is believed that reference numeral "30" should be changed to reference numeral --30"--;

(13) paragraph no. [0041], line 11, the examiner notes that reference numeral "90" has already been used to represent "edges" of the couplers "64" in the second embodiment and therefore, it is suggested that the third planar member be changed to reference numeral --91--;

(14) paragraph, no. [0041], line 13, it is believed that reference numeral "30" should be changed to reference numeral --30"--;

(15) paragraph, no. [0041], line 14, it is believed that reference numeral "30" should be changed to reference numeral --30"--;

(16) paragraph no. [0041], line 15, it is believed that both occurrences of the reference numeral "42" should be changed to reference numeral --42"--;

(17) paragraph, no. [0041], line 16, it is believed that reference numeral "30" should be changed to reference numeral --30"--;

(18) paragraph, no. [0041], line 17, it is believed that reference numeral "40" should be changed to reference numeral --40"--;

(19) paragraph, no. [0041], line 20, it is believed that reference numeral "60"" should be changed to reference numeral --60"--;

(20) paragraph, no. [0041], line 21, it is believed that reference numeral "42" should be changed to reference numeral --42"--;

(21) paragraph, no. [0041], line 21, it is believed that reference numeral "40' "" should be changed to reference numeral --40"--;

(22) paragraph, no. [0041], line 25, it is believed that reference numeral "42" should be changed to reference numeral --42"--;

(23) paragraph, no. [0041], line 26, it is believed that reference numeral "42" should be changed to reference numeral --42"--; and

(24) paragraph, no. [0041], line 28, it is believed that reference numeral "42" should be changed to reference numeral --42"--.

Appropriate correction is required.

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

**Claims 2-7, 9-12, 15-23, 25, 26, 28-30, and 33-35 are rejected under 35**

**U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.**

**Claim 3**, line 4 (and dependent claims 2, 4-7, 9-11, and 21 either directly or indirectly dependent thereon), the recitation that the anchor body has “a rectangular shape” constitutes new matter as not being supported by the original disclosure. There is no textual disclosure that the anchor body (44) is rectangular in shape, nor does Fig. 4 appear to show that the body (44) is rectangular in shape. Even if the first and second planar members (68, 72) and lower member (74) are rectangular in shape (although this is not clear from the drawings), this does not mean that the entire anchor body (44) is rectangular in shape.

**Claim 3**, line 6 (and dependent claims 2, 4-7, 9-11, and 21 either directly or indirectly dependent thereon), the recitation of a “fixed-dimension” notch constitutes new matter as not being supported by the original disclosure.

**Claim 12**, line 5 (and dependent claims 15 and 17-19 either directly or indirectly dependent thereon), the recitation of a "fixed-dimension" notch constitutes new matter as not being supported by the original disclosure.

**Claim 16**, line 5, the recitation of a "fixed-dimension" notch constitutes new matter as not being supported by the original disclosure.

**Claim 20**, line 5, the recitation of a "fixed-dimension" notch constitutes new matter as not being supported by the original disclosure.

**Claim 26**, line 5 (and dependent claims 28-30 and 33-35 either directly or indirectly dependent thereon), the recitation of a "fixed-dimension" notch constitutes new matter as not being supported by the original disclosure.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 2-7, 9-12, 15-23, 25, 26, 28-30, 33-35, and 51 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

**Claim 3**, line 4 (and dependent claims 2, 4-7, 9-11, and 21 either directly or indirectly dependent thereon), the recitation that the anchor body has "a rectangular shape" is vague, indefinite, and confusing as not being clear. There is no textual disclosure that the anchor body (44) is rectangular in shape, nor does Fig. 4 appear to show that the body (44) is rectangular in shape. Even if the first and second planar

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members (68, 72) and lower member (74) are rectangular in shape (although this is not clear from the drawings), this does not mean that the entire anchor body (44) is rectangular in shape.

**Claim 3**, line 6 (and dependent claims 2, 4-7, 9-11, and 21 either directly or indirectly dependent thereon), the recitation of a "fixed-dimension" notch is vague, indefinite, and confusing as not being clear since the specification does not define what is meant by "fixed-dimension" notch nor is it clear from the drawings how the notch (50) constitutes a "fixed-dimension" notch. What dimension is fixed?

**Claim 12**, line 5 (and dependent claims 15 and 17-19 either directly or indirectly dependent thereon), the recitation of a "fixed-dimension" notch is vague, indefinite, and confusing as not being clear since the specification does not define what is meant by "fixed-dimension" notch nor is it clear from the drawings how the notch (50) constitutes a "fixed-dimension" notch. What dimension is fixed?

**Claim 12**, lines 5-6 (and dependent claims 15 and 17-19 either directly or indirectly dependent thereon), the recitation of "a fixed-dimension notch in the first body portion" is vague, indefinite, and confusing as not being clear. Elected SPECIES I (i.e., Fig. 4) clearly has the notch (50) being in the second body portion (62), not the first body portion (60). Further, paragraph no. [0033] clearly states that the notch (50) is in the second body portion (62), not the first body portion (60). Finally, claim 7 clearly recites in line 3 that "said second body portion comprising said notch." Thus, Applicant's specification and claims appear internally inconsistent as to which of the first and second body portions included the notch.

**Claim 12**, lines 6-7 (and dependent claims 15 and 17-19 either directly or indirectly dependent thereon), the recitation of "said second body portion comprising a coupler extending outward from the opening" is vague, indefinite, and confusing as not being clear. Elected SPECIES I (i.e., Fig. 4) clearly has the coupler (64) being in the first body portion (60), not the second body portion (62). Further, paragraph no. [0030] clearly states that the first body portion (60), not the second body portion (62), includes at least one coupler (64). Finally, claim 7 clearly recites in lines 2-3 that "said first body portion having the coupler." Thus, Applicant's specification and claims appear internally inconsistent as to which of the first and second body portions included the coupler.

**Claim 16**, line 5, the recitation of a "fixed-dimension" notch is vague, indefinite, and confusing as not being clear since the specification does not define what is meant by "fixed-dimension" notch nor is it clear from the drawings how the notch (50) constitutes a "fixed-dimension" notch. What dimension is fixed?

**Claim 16**, lines 5-6, the recitation of "a fixed-dimension notch in the first body portion" is vague, indefinite, and confusing as not being clear. Elected SPECIES I (i.e., Fig. 4) clearly has the notch (50) being in the second body portion (62), not the first body portion (60). Further, paragraph no. [0033] clearly states that the notch (50) is in the second body portion (62), not the first body portion (60). Finally, claim 7 clearly recites in line 3 that "said second body portion comprising said notch." Thus, Applicant's specification and claims appear internally inconsistent as to which of the first and second body portions included the notch.

**Claim 16**, lines 6-7, the recitation of "said second body portion comprising a coupler extending outward from the opening" is vague, indefinite, and confusing as not being clear. Elected SPECIES I (i.e., Fig. 4) clearly has the coupler (64) being in the first body portion (60), not the second body portion (62). Further, paragraph no. [0030] clearly states that the first body portion (60), not the second body portion (62), includes at least one coupler (64). Finally, claim 7 clearly recites in lines 2-3 that "said first body portion having the coupler." Thus, Applicant's specification and claims appear internally inconsistent as to which of the first and second body portions included the coupler.

**Claim 20**, line 5, the recitation of a "fixed-dimension" notch is vague, indefinite, and confusing as not being clear since the specification does not define what is meant by "fixed-dimension" notch nor is it clear from the drawings how the notch (50) constitutes a "fixed-dimension" notch. What dimension is fixed?

**Claim 20**, lines 5-6, the recitation of "a fixed-dimension notch in the first body portion" is vague, indefinite, and confusing as not being clear. Elected SPECIES I (i.e., Fig. 4) clearly has the notch (50) being in the second body portion (62), not the first body portion (60). Further, paragraph no. [0033] clearly states that the notch (50) is in the second body portion (62), not the first body portion (60). Finally, claim 7 clearly recites in line 3 that "said second body portion comprising said notch." Thus, Applicant's specification and claims appear internally inconsistent as to which of the first and second body portions included the notch.

**Claim 20**, lines 6-7, the recitation of "said second body portion comprising a coupler extending outward from the opening" is vague, indefinite, and confusing as not

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being clear. Elected SPECIES I (i.e., Fig. 4) clearly has the coupler (64) being in the first body portion (60), not the second body portion (62). Further, paragraph no. [0030] clearly states that the first body portion (60), not the second body portion (62), includes at least one coupler (64). Finally, claim 7 clearly recites in lines 2-3 that "said first body portion having the coupler." Thus, Applicant's specification and claims appear internally inconsistent as to which of the first and second body portions included the coupler.

**Claim 26**, line 5 (and dependent claims 28-30 and 33-35 either directly or indirectly dependent thereon), the recitation of a "fixed-dimension" notch is vague, indefinite, and confusing as not being clear since the specification does not define what is meant by "fixed-dimension" notch nor is it clear from the drawings how the notch (50) constitutes a "fixed-dimension" notch. What dimension is fixed?

**Claim 26**, lines 4-6 (and dependent claims 28-30 and 33-35 either directly or indirectly dependent thereon), the recitation of "a first body portion having a longitudinal side and a lateral side, said first body portion positioned at least partially within said opening so that a fixed-dimension notch formed in the lateral side receives the edge of the surface" is vague, indefinite, and confusing as not being clear. Elected SPECIES I (i.e., Fig. 4) clearly has the notch (50) being in the second body portion (62), not the first body portion (60). Further, paragraph no. [0033] clearly states that the notch (50) is in the second body portion (62), not the first body portion (60). Finally, claim 7 clearly recites in line 3 that "said second body portion comprising said notch." Thus, Applicant's specification and claims appear internally inconsistent as to which of the first and second body portions included the notch.



**Claim 26**, line 8, the recitation of “a top surface of the deck” is vague, indefinite, and confusing as lacking antecedent basis. Is the top surface of the deck the same surface as recited in line 2 in which case “a top surface” should be changed to –said surface-- for clear antecedent basis?

**Claim 26**, line 9 (and dependent claims 28-30 and 33-35 either directly or indirectly dependent thereon), the recitation of “a second body portion having a coupler extending outward from the first body portion” is vague, indefinite, and confusing as not being clear. Elected SPECIES I (i.e., Fig. 4) clearly has the coupler (64) being in the first body portion (60), not the second body portion (62). Further, paragraph no. [0030] clearly states that the first body portion (60), not the second body portion (62), includes at least one coupler (64). Finally, claim 7 clearly recites in lines 2-3 that “said first body portion having the coupler.” Thus, Applicant’s specification and claims appear internally inconsistent as to which of the first and second body portions included the coupler.

**Claim 51**, line 3, the recitation of “the surface” is vague, indefinite, and confusing as lacking antecedent basis.

**Claim 51**, lines 5-6, the recitation of “a notch in the first body portion” is vague, indefinite, and confusing as not being clear. Elected SPECIES I (i.e., Fig. 4) clearly has the notch (50) being in the second body portion (62), not the first body portion (60). Further, paragraph no. [0033] clearly states that the notch (50) is in the second body portion (62), not the first body portion (60). Finally, claim 7 clearly recites in line 3 that “said second body portion comprising said notch.” Thus, Applicant’s specification and

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claims appear internally inconsistent as to which of the first and second body portions included the notch.

**Claim 51**, lines 7-8, the recitation of "an upper surface of the deck" is vague, indefinite, and confusing as lacking antecedent basis. Is the upper surface the same surface as "the surface" in line 3?

**Claim 51**, lines 10-11, the recitation of "said second body portion comprising a coupler extending outward from the opening" is vague, indefinite, and confusing as not being clear. Elected SPECIES I (i.e., Fig. 4) clearly has the coupler (64) being in the first body portion (60), not the second body portion (62). Further, paragraph no. [0030] clearly states that the first body portion (60), not the second body portion (62), includes at least one coupler (64). Finally, claim 7 clearly recites in lines 2-3 that "said first body portion having the coupler." Thus, Applicant's specification and claims appear internally inconsistent as to which of the first and second body portions included the coupler.

**Claim 51**, line 10, the recitation of "a lower surface of the deck" is vague, indefinite, and confusing as lacking antecedent basis. Is the lower surface the same surface as "the surface" in line 3?

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 3, 2, 4-7, 9-11, 21, 12, 15, 17-19, 20, 26, 25, 28-30, 33, 35, and 51 are rejected under 35 U.S.C. 102(b) as being anticipated by SPECKTOR (U.S. Patent No. 4,138,877 cited on Information Disclosure Statement or IDS filed 30 May 2007).**

**As to claim 3** (and as best understood despite the 35 U.S.C. § 112, first and second paragraph, lack of written description and indefiniteness, respectively, discussed above), SPECKTOR discloses an anchor device (apparatus 100 in Figs. 3 and 8 or apparatus in Figs. 6, 7, and 9) “for coupling an external device to a surface of a deck” (the structure of SPECKTOR is capable of performing the recited intended use within quotation marks), said anchor device (apparatus) being received within an opening (152) of the surface (150), said opening (152) having an edge of the surface (150) therein, said anchor device (apparatus) comprising:

an anchor body (at least 54 and 70) having a rectangular shape with a longitudinal side and a lateral side, said anchor body (54 and 70) positioned at least partially within said opening (152) so that a fixed-dimension notch (above lip 160 and adjacent 182 in Fig. 3 or notch of 70 in Figs. 6, 7, and 9) in the lateral side receives the edge of the surface (150), said anchor body (54 and 70) comprising a coupler (structure above 54) extending outward from the opening (152), said coupler coupling to the external device (10).

**As to claim 2** (and as best understood despite the 35 U.S.C. § 112, first and second paragraph, lack of written description and indefiniteness, respectively, discussed above), SPECKTOR discloses the anchor device of claim 3 as discussed

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above, and SPECKTOR also discloses that the notch (above lip 160 and adjacent 182 in Fig. 3) in the lateral side receives the edge of the surface (150) comprises a generally U-shape notch.

**As to claim 4** (and as best understood despite the 35 U.S.C. § 112, first and second paragraph, lack of written description and indefiniteness, respectively, discussed above), SPECKTOR discloses the anchor device of claim 3 as discussed above, and SPECKTOR also discloses that the coupler comprises a first coupler (112 or 56) and a second coupler (113 or 58).

**As to claim 5** (and as best understood despite the 35 U.S.C. § 112, first and second paragraph, lack of written description and indefiniteness, respectively, discussed above), SPECKTOR discloses the anchor device of claim 4 as discussed above, and SPECKTOR also discloses that said first coupler (56) and said second coupler (58) have a respective first coupling hole (86) and a second coupling hole (88) therethrough.

**As to claim 6** (and as best understood despite the 35 U.S.C. § 112, first and second paragraph, lack of written description and indefiniteness, respectively, discussed above), SPECKTOR discloses the anchor device of claim 5 as discussed above, and SPECKTOR also discloses that said first coupling hole (86) and said second coupling hole (88) are coaxial.

**As to claim 7** (and as best understood despite the 35 U.S.C. § 112, first and second paragraph, lack of written description and indefiniteness, respectively, discussed above), SPECKTOR discloses the anchor device of claim 3 as discussed

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above, and SPECKTOR also discloses that the anchor body (at least 54 and 70) comprises a first body portion (54 and above) and a second body portion (70), said first body portion (54 and above) having the coupler (112, 113 or 56, 58) and said second body portion (70) comprising said notch (in 70).

**As to claim 9** (and as best understood despite the 35 U.S.C. § 112, first and second paragraph, lack of written description and indefiniteness, respectively, discussed above), SPECKTOR discloses the anchor device of claim 7 as discussed above, and SPECKTOR also discloses that the second body portion (70) is fixedly coupled to (see col. 7, line 33, "attachment member 70 is then attached to section 54") the first body portion (54 and above).

**As to claim 10** (and as best understood despite the 35 U.S.C. § 112, first and second paragraph, lack of written description and indefiniteness, respectively, discussed above), SPECKTOR discloses the anchor device of claim 7 as discussed above, and SPECKTOR also discloses that the second body portion (70) and the first body portion (54 and above) form a unitary structure (see col. 7, line 33, "attachment member 70 is then attached to section 54" – once attached, they are unitary).

**As to claim 11** (and as best understood despite the 35 U.S.C. § 112, first and second paragraph, lack of written description and indefiniteness, respectively, discussed above), SPECKTOR discloses the anchor device of claim 7 as discussed above, and SPECKTOR also discloses that the first body portion (54 and above) has a first planar member (54) extending parallel to said surface (150), said coupler (112, 113 or 56 and 58) extending in a direction perpendicular to said first planar member (54).

**As to claim 21** (and as best understood despite the 35 U.S.C. § 112, first and second paragraph, lack of written description and indefiniteness, respectively, discussed above), SPECKTOR discloses the anchor device of claim 7 as discussed above, and SPECKTOR also discloses that the second body portion (70) comprises a channel (see unnumbered channel through 70 as shown in Figs. 3 and 5) therethrough “for receiving a fastener, said fastener coupling said first body portion and said second body portion” (the structure of SPECKTOR is capable of performing the recited intended use within quotation marks).

**As to claim 12** (and as best understood despite the 35 U.S.C. § 112, first and second paragraph, lack of written description and indefiniteness, respectively, discussed above), SPECKTOR discloses an anchor device (apparatus 100 in Figs. 3 and 8 or apparatus in Figs. 6, 7, and 9) “for coupling an external device to a surface of a deck” (the structure of SPECKTOR is capable of performing the recited intended use within quotation marks), said anchor device (apparatus) being received within an opening (152) of the surface (150), said opening (152) having an edge of the surface (150) therein, said anchor device (apparatus) comprising:

an anchor body (at least 54 and 70) comprising a first body portion (54 and above) and a second body portion (70), said anchor body (at least 54 and 70) positioned at least partially within said opening (152) so that a fixed-dimension notch (notch in 70) in the first [sic – second] body portion (70) receives the edge of the surface (150), said second [sic – first] body portion (54 and above) comprising a coupler (56, 58) extending outward from the opening (152), said coupler (56, 58) coupling to the

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external device (10), the first body portion (54 and above) having a first planar member (54) extending parallel to said surface (150), said coupler (56, 58) extending in a direction perpendicular to said first planar member (54), said anchor body (at least 54 and 70) having a flange (82 or 84) fixedly coupled to said first planar member (54) and said coupler (56, 58).

**As to claim 15** (and as best understood despite the 35 U.S.C. § 112, first and second paragraph, lack of written description and indefiniteness, respectively, discussed above), SPECKTOR discloses the anchor device of claim 12 as discussed above, and SPECKTOR also discloses that said second body portion (70) comprises a second planar member (182 of 70) coupled to said first body portion (54 and above).

**As to claim 17** (and as best understood despite the 35 U.S.C. § 112, first and second paragraph, lack of written description and indefiniteness, respectively, discussed above), SPECKTOR discloses the anchor device of claim 15 as discussed above, and SPECKTOR also discloses that the second planar member (182 of 70) has a first width greater than an opening width.

The examiner notes that since the recitation of “an opening width” does not clearly refer back to “an opening of the surface” introduced in claim 12, this claim language is believed to be met by the structure of SPECKTOR.

**As to claim 18** (and as best understood despite the 35 U.S.C. § 112, first and second paragraph, lack of written description and indefiniteness, respectively, discussed above), SPECKTOR discloses the anchor device of claim 15 as discussed

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above, and SPECKTOR also discloses that the second planar member (182 of 70) has a first length greater than an opening length.

The examiner notes that since the recitation of “an opening length” does not clearly refer back to “an opening of the surface” introduced in claim 12, this claim language is believed to be met by the structure of SPECKTOR.

**As to claim 19** (and as best understood despite the 35 U.S.C. § 112, first and second paragraph, lack of written description and indefiniteness, respectively, discussed above), SPECKTOR discloses the anchor device of claim 15 as discussed above, and SPECKTOR also discloses that the second planar member (812 of 70) has a first length greater than an opening length and a first width greater than an opening width.

The examiner notes that since the recitations of “an opening width” and “an opening length” do not clearly refer back to “an opening of the surface” introduced in claim 12, this claim language is believed to be met by the structure of SPECKTOR.

**As to claim 20** (and as best understood despite the 35 U.S.C. § 112, first and second paragraph, lack of written description and indefiniteness, respectively, discussed above), SPECKTOR discloses an anchor device (apparatus 100 in Figs. 3 and 8 or apparatus in Figs. 6, 7, and 9) “for coupling an external device to a surface of a deck” (the structure of SPECKTOR is capable of performing the recited intended use within quotation marks), said anchor device (apparatus) being received within an opening (152) of the surface (150), said opening (152) having an edge of the surface (150) therein, said anchor device (apparatus) comprising:



an anchor body (at least 54 and 70) comprising a first body portion (54 and above) and a second body portion (70), said anchor body (at least 54 and 70) positioned at least partially within said opening (152) so that a fixed-dimension notch (notch in 70) in the first [sic – second] body portion (70) receives the edge of the surface (150), said second [sic – first] body portion (54 and above) comprising a coupler (56, 58) extending outward from the opening (152) and a second planar member (upper plate 182 or lower plate 158 of 70), said coupler (70) coupling to the external device (10), the first body portion (54 and above) having a first planar member (54) coupled to the second planar member (182 or 158 of 70), the second planar member (182 or 158) disposed parallel to the surface (150).

**As to claim 26** (and as best understood despite the 35 U.S.C. § 112, first and second paragraph, lack of written description and indefiniteness, respectively, discussed above), SPECKTOR discloses an anchor device (apparatus 100 in Figs. 3 and 8 or apparatus in Figs. 6, 7, and 9) “for coupling an external device to a surface of a deck” (the structure of SPECKTOR is capable of performing the recited intended use within quotation marks), said anchor device (apparatus) being received within an opening (152) of the surface (150), said opening (152) having an edge of the surface (150) therein, said anchor device (apparatus) comprising:

a first [sic – second] body portion (70) having a longitudinal side and a lateral side, said first [sic – second] body portion (70) positioned at least partially within said opening (152) so that a fixed-dimension notch (notch in 70) formed in the lateral side receives the edge of the surface (150) and partially positioned on said surface (150)

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over said opening (152) and a first member (54) is positioned over the opening (152) to engage a top surface (150) of the deck; and

a second [sic – first] body portion (54 and above) having a coupler (56, 58) extending outward from the first [sic – second] body portion (70), said coupler (56, 58) coupling to the external device (10).

**As to claim 25** (and as best understood despite the 35 U.S.C. § 112, first and second paragraph, lack of written description and indefiniteness, respectively, discussed above), SPECKTOR discloses the anchor device of claim 26 as discussed above, and SPECKTOR also discloses that the notch (notch in 70) comprises a generally U-shape notch.

**As to claim 28** (and as best understood despite the 35 U.S.C. § 112, first and second paragraph, lack of written description and indefiniteness, respectively, discussed above), SPECKTOR discloses the anchor device of claim 26 as discussed above, and SPECKTOR also discloses that the second body portion (54 and above) is fixedly coupled to the first body portion (70).

**As to claim 29** (and as best understood despite the 35 U.S.C. § 112, first and second paragraph, lack of written description and indefiniteness, respectively, discussed above), SPECKTOR discloses the anchor device of claim 26 as discussed above, and SPECKTOR also discloses that the second body portion (54 and above) and the first body portion (70) form a unitary structure.

**As to claim 30** (and as best understood despite the 35 U.S.C. § 112, first and second paragraph, lack of written description and indefiniteness, respectively,

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discussed above), SPECKTOR discloses the anchor device of claim 29 as discussed above, and SPECKTOR also discloses a flange (82 or 84) fixedly coupled to said first [sic – second] body portion (54 and above) and said coupler (56, 58).

**As to claim 33** (and as best understood despite the 35 U.S.C. § 112, first and second paragraph, lack of written description and indefiniteness, respectively, discussed above), SPECKTOR discloses the anchor device of claim 26 as discussed above, and SPECKTOR also discloses that said second [sic – first] body portion (54 and above) comprises a first planar member (54) extending parallel to the surface (150) and a second planar member (upper plate 182 or lower plate 158) coupled to said first [sic – second] body portion (70).

**As to claim 35** (and as best understood despite the 35 U.S.C. § 112, first and second paragraph, lack of written description and indefiniteness, respectively, discussed above), SPECKTOR discloses the anchor device of claim 26 as discussed above, and SPECKTOR also discloses that the second body portion (70) comprises a channel (channel through 70) therethrough “for receiving a fastener, said fastener coupling said first body portion and said second body portion” (the structure of SPECKTOR is capable of performing the recited intended use within quotation marks).

**As to claim 51** (and as best understood despite the 35 U.S.C. § 112, second paragraph, indefiniteness discussed above), SPECKTOR discloses an anchor device (apparatus 100 in Figs. 3 and 8 or apparatus in Figs. 6, 7, and 9) “for coupling an external device to a surface of a deck” (the structure of SPECKTOR is capable of performing the recited intended use within quotation marks), said anchor device

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(apparatus) being received within an opening (152) of the surface (150), said opening (152) having an edge of the surface (150) therein, said anchor device (apparatus) comprising:

an anchor body (at least 54 and 70) comprising a first body portion (54 and above) and a second body portion (70), said anchor body (at least 54 and 70) positioned at least partially within said opening (152) so that a notch (notch in 70) in the first [sic – second] body portion (70) receives the edge of the deck, said first [sic – second] body portion (54 and above) having a unitary structure including a first planar member (54) disposed adjacent to an upper surface of the deck and having at least one dimension larger than the opening (152), and a second planar member (upper plate 182 of 70) having the notch (notch in 70) formed therein, said second planar member (182) extending adjacent to the edge and a lower surface of the deck, said second body portion (54 and above) comprising a coupler (56, 58) extending outward from the opening (152), said coupler (56, 58) coupling to the external device (10).

**Claims 16 and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over SPECKTOR (U.S. Patent No. 4,138,877 cited on Information Disclosure Statement or IDS filed 30 May 2007).**

**As to claim 16** (and as best understood despite the 35 U.S.C. § 112, first and second paragraph, lack of written description and indefiniteness, respectively, discussed above), SPECKTOR discloses an anchor device (apparatus 100 in Figs. 3

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and 8 or apparatus in Figs. 6, 7, and 9) “for coupling an external device to a surface of a deck” (the structure of SPECKTOR is capable of performing the recited intended use within quotation marks), said anchor device (apparatus) being received within an opening (152) of the surface (150), said opening (152) having an edge of the surface (150) therein, said anchor device (apparatus) comprising:

an anchor body (at least 54 and 70) comprising a first body portion (54 and above) and a second body portion (70), said anchor body (at least 54 and 70) positioned at least partially within said opening (152) so that a fixed-dimension notch (notch in 70) in the first [sic – second] body portion (70) receives the edge of the surface (150), said second [sic – first] body portion (54 and above) comprising a coupler (56, 58) extending outward from the opening (152) and a second planar member (182 or 158 of 70), said coupler (56, 58) coupling to the external device (10), the first body portion (54 and above) having a first planar member (54) coupled to the second planar member (182 or 158 of 70), said second planar member (158) is sized greater than said opening (152).

In the alternative, SPECKTOR may fail to explicitly disclose that said second planar member is sized greater than said opening.

However, it is well settled that changes in size/proportion do not constitute a patentable difference. See *In Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), *cert. denied*, 469 U.S. 830, 225 USPQ 232 (1984), wherein the Federal Circuit held that, where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the

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claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device. See also, *Hobbs v. Wisconsin Power and Light Company et al.*, 115 USPQ 371 (CA 1957), in which the court stated that “[g]enerally, it is not invention to change size or degree of thing or of any feature or function of machine or manufacture; there is no invention where change does not involve different concept, purposes, or objects, but amounts to doing same thing substantially the same way with better results.” See also, *The Ward Machinery Company v. Wm. C. Staley Machinery Corporation*, in which the court stated that “[i]mprovement resulting from change in size, proportion, or degree of element contained in prior art, no matter how desirable or useful, does not constitute patentable invention.”

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the anchor device of SPECTOR by making the second planar member be sized greater than said opening in order to better hold the second planar member within the opening and because changes in size/proportion (i.e., dimension) do not constitute a patentable difference.

**As to claim 34** (and as best understood despite the 35 U.S.C. § 112, first and second paragraph, lack of written description and indefiniteness, respectively, discussed above), SPECKTOR discloses the anchor device of claim 33 as discussed above, and SPECKTOR also discloses that said second planar member (upper plate 182 or lower plate 158) is sized greater than said opening.

In the alternative, SPECKTOR may fail to explicitly disclose that said second planar member is sized greater than said opening.

However, it is well settled that changes in size/proportion do not constitute a patentable difference. See *In Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), *cert. denied*, 469 U.S. 830, 225 USPQ 232 (1984), wherein the Federal Circuit held that, where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device. See also, *Hobbs v. Wisconsin Power and Light Company et al.*, 115 USPQ 371 (CA 1957), in which the court stated that “[g]enerally, it is not invention to change size or degree of thing or of any feature or function of machine or manufacture; there is no invention where change does not involve different concept, purposes, or objects, but amounts to doing same thing substantially the same way with better results.” See also, *The Ward Machinery Company v. Wm. C. Staley Machinery Corporation*, in which the court stated that “[i]mprovement resulting from change in size, proportion, or degree of element contained in prior art, no matter how desirable or useful, does not constitute patentable invention.”

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the anchor device of SPECTOR by making the second planar member be sized greater than said opening in order to better hold the second

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planar member within the opening and because changes in size/proportion (i.e., dimension) do not constitute a patentable difference.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gay Ann Spahn whose telephone number is (571)-272-7731. The examiner can normally be reached on Monday through Friday, 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard E. Chilcot can be reached on (571)-272-6777. The fax phone number for the organization where this application or proceeding is assigned is (571)-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a



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USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gay Ann Spahn/  
Gay Ann Spahn, Primary Examiner  
October 23, 2009